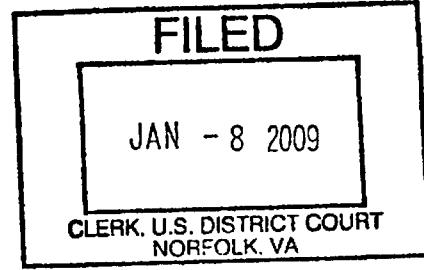


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

CHERYL B. DELAPENA,



Plaintiff,

v.

ACTION NO. 2:08cv204

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

FINAL ORDER

Plaintiff brought this action under 42 U.S.C. § 405(g) seeking judicial review of the decision of the Commissioner of Social Security denying plaintiff's claim for disability insurance benefits under the Social Security Act.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B), by order of referral entered July 21, 2008, for report and recommendation. Report of the magistrate judge was filed on December 15, 2008, recommending that the Commissioner's decision be reversed and the case be remanded for rehearing pursuant to sentence four of 42 U.S.C. § 405(g).

By copy of the report, each party was advised of the right to file written objections to the findings and recommendations made by the magistrate judge. The court received defendant's objection to Magistrate's Report and Recommendation on December 22, 2008, and Plaintiff's Response to Defendant's Objections to the Magistrate

Judge's Report and Recommendation on December 30, 2008.

The court, having examined the objections to the Magistrate Judge's Report and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed December 15, 2008. Accordingly, defendant's Motion for Judgment is DENIED, plaintiff's Motion for Summary Judgment seeking disability insurance benefits is DENIED in part, but the motion is GRANTED in part to the extent of vacating and remanding the Commissioner's decision, and the matter is REMANDED to the Commissioner of Social Security for further proceedings consistent with the Report of the Magistrate Judge filed December 15, 2008.

The parties may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within sixty (60) days from the date of entry of such judgment.

The Clerk shall forward a copy of this Order to counsel for the parties.

/s/
Rebecca Beach Smith
United States District Judge

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

January 8 , 2009